

AC/TMH:gh 2/27/06 6616-72621-05 490877 AG03-004C-US

PATENT  
Attorney Reference Number 6616-72621-05

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of:** Lammers et al.

**Application No.** 10/509,669

**Filed:** September 27, 2004

**Confirmation No.** 3140

**For:** GENERATION OF PLANTS WITH  
IMPROVED PATHOGEN RESISTANCE

**Examiner:**

**Art Unit:**

**Attorney Reference No.** 6616-72621-05

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP PCT, COMMISSIONER FOR PATENTS, OFFICE OF PCT LEGAL ADMINISTRATION, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

*Anne Carlson*

Date Mailed February 27, 2006

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TRANSMITTAL LETTER

Enclosed for filing in the application referenced above are the following:

- ☒ Response to Decision dated December 29, 2005
- ☒ Declaration (14 pages)

- ☒ The Director is hereby authorized to charge any additional fees that may be required, or credit over-payment, to Deposit Account No. 02-4550. A copy of this sheet is enclosed.
- ☒ Please return the enclosed postcard to confirm that the items listed above have been received.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By

*Anne Carlson*

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**RESPONSE TO DECISION REGARDING DECLARATION**

This responds to the Decision dated December 29, 2005. A two month period for response was set, making a response timely if filed on or before **February 28, 2006**. It is believed that no fee is required for this filing; deposit account authority is provided on the accompanying transmittal letter if the Commissioner disagrees.

Applicants thank the Office of PCT Legal Administration for acknowledging in the Decision that the listing of Tina M. Harweel is a typographical error by the USPTO and that Applicants' explanation with regard to the spelling of inventor Harwell's name meets the requirements of the MPEP.

Applicants submit the enclosed documents in response to the Decision dated December 29, 2005. The Decision states that the declaration submitted on November 17, 2005, does not comply with 37 CFR § 1.497(a) and (b) because it was not executed by all of the named inventors. As stated in a previous response submitted on November 14, 2005, many of the inventors are no longer employed by the assignee. Thus, it was not possible to obtain executed declarations from each of the inventors before the November 14, 2005, deadline. Applicants

provide herewith seven copies of the Declaration, each executed separately by an inventor. Applicants submit that the complete Declaration (14 pages total) accompanying this response is in compliance with 37 CFR § 1.497(a) and (b), and that the submission of this document is responsive to the December 29, 2005, Decision.

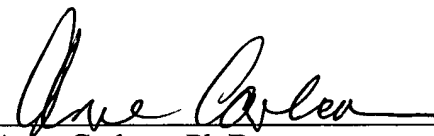
In the event the submitted document is not responsive, Applicants petition to revive this abandoned application pursuant to 37 CFR § 1.137(b), as the entire delay in providing the Declarations was unintentional. Applicants include herewith the reply required by the outstanding action. The Commissioner is authorized to take the petition fee set forth in 37 CFR § 1.17(m) from the deposit account referred to on the attached transmittal.

If anything further is required to put this application in condition for substantive examination, the Office is invited to telephone Applicants' undersigned representative.

Respectfully submitted,

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